

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Stephen Swinton,	:	
	:	Civil Action No.: <u>4:16-cv-3056</u>
Plaintiff,	:	
v.	:	
Patient Accounting Service Center, LLC d/b/a	:	COMPLAINT
ARSTRAT,	:	JURY
Defendant.	:	
	:	

For this Complaint, Plaintiff, Stephen Swinton, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (the "FDCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Stephen Swinton ("Plaintiff"), is an adult individual residing in Henderson, Nevada, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).
4. Defendant, Patient Accounting Service Center, LLC d/b/a ARSTRAT ("ARSTRAT"), is a Texas business entity with an address of 9800 Centre Parkway #1100, Houston, Texas 77036, operating as a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

5. A financial obligation (the “Debt”) was allegedly incurred to an original creditor (the “Creditor”).

6. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes, which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

7. The Debt was purchased, assigned or transferred to ARSTRAT for collection, or ARSTRAT was employed by the Creditor to collect the Debt.

8. Defendant attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. ARSTRAT Engages in Harassment and Abusive Tactics

9. Within the last year, ARSTRAT contacted Plaintiff in an attempt to collect the Debt. The Debt is allegedly owed by a person other than Plaintiff (the “Debtor”).

10. In or around January 2016, Plaintiff advised ARSTRAT that he did not know the Debtor and that the Debtor could not be reached at his telephone number.

11. Nevertheless, ARSTRAT continued to call Plaintiff in an attempt to collect the Debt.

C. Plaintiff Suffered Actual Damages

12. Plaintiff has suffered and continues to suffer actual damages as a result of Defendant’s unlawful conduct.

13. As a direct consequence of Defendant’s acts, practices and conduct, Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I
VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

14. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

15. Defendant's conduct violated 15 U.S.C. § 1692d in that Defendant engaged in behavior the natural consequence of which was to harass, oppress, or abuse Plaintiff in connection with collection of the Debt.

16. Defendant's conduct violated 15 U.S.C. § 1692d(5) in that Defendant caused a phone to ring repeatedly and engaged Plaintiff in telephone conversations with the intent to annoy and harass Plaintiff.

17. Defendant's conduct violated 15 U.S.C. § 1692f in that Defendant used unfair and unconscionable means to collect the Debt.

18. The foregoing acts and omissions of Defendant constitute numerous and multiple violations of the FDCPA.

19. Plaintiff is entitled to damages as a result of Defendant's violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3);
4. Punitive damages; and
5. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: October 14, 2016

Respectfully submitted,

By: /s/ Jenny DeFrancisco

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